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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,473	08/18/2006	Geert Heyse	31118/DY0303	6187

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Marshall, Gerstein & Borun LLP (Newell)
233 South Wacker Drive
6300 Willis Tower
Chicago, IL 60606

EXAMINER	
MARINI, MATTHEW G	

ART UNIT	PAPER NUMBER
2854	

NOTIFICATION DATE	DELIVERY MODE
07/15/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mgbdocket@marshallip.com

Office Action Summary	Application No.	Applicant(s)	
	10/562,473	HEYSE ET AL.	
	Examiner	Art Unit	
	MATTHEW G. MARINI	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 June 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48-53,57,58 and 69-74* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *48-53,57,58 and 69-74* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/28/11*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/20/11 has been entered.

Claim Objections

Claim 52 is objected to because of the following informalities:

It appears is claim 52, line 2 "an image receiving medium" should read --the image receiving medium-- for correct antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 48-53, 57, 58 and 60-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugaya et al. (JP 2001-310514) in view of Niwa (6,113,294).

Note the paragraph and lines refer back to the provide machine translation of Sugaya et al. JP 2001-310514.

With respect to claims 48, 50, 58 and 72 Sugaya et al. teaches in Fig. 2 a label printer (2) for printing, said label printer (2) comprising: at least one print head (21); and a cutting mechanism (5); and a processor (9); wherein, when the label printer (2) is operated, the processor (9) causes the at least one print head (21) to print an image [0060], and causes, the at least one print head (21) to print a first background (P1, Fig. 10) for one label (according to a 1st image as seen in Fig. 10a) and a different, second background (P2, Fig. 10) for a second, subsequent label ([0078] as seen in Fig. 10a) in a manner such that there is a region image (between the 1st and 2nd, as seen in Fig. 10a) within which the first and second backgrounds (Fig. 10a) meet to provide a blend between the first and second backgrounds (i.e. the area between P2 and P3); the processor (9) is configured to cause the cutting mechanism (5) to provide a cut on either side of the region (as seen in Fig. 14); and the processor (9) is configured to cause the at least one of said at least one print head (21) to start printing the second image (P2, Fig. 10a) on one side of a cut provided by said cutting mechanism (5) and to continue printing on the other side of said cut (to form the second image).

Sugaya et al. fails to teach the cutting mechanism provides both cuts as being a partial cut.

Niwa teaches in fig. 2 a similar printer as taught in Ishigouoka et al, where a cutting mechanism, 23, provides both full cutting and partial cutting in a multi-layered label tape.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Sugaya et al. by replacing the cutting mechanism, 5, and recording

medium, 1, as taught by Sugaya et al. with the cutting mechanism, 23, and label as taught by Niwa in Fig. 2 because Niwa teaches in Col. 2 lines 35-37, the partial cutting capability only cutes the print layer of the tape when the printing unit prints area on the print layer of the tape.

Note the method of claim 74 is performed by the taught structure of claim 48.

With respect to claim 49, Sugaya et al. as modified by Niwa, teaches in Fig. 1 of Sugaya et al. a label printer (2) for printing (capable of when) the label printer is operated, the processor (9, is capable of) causing the at least one print head (21) to print information on said region (between P2 and P3) between said first and second labels, wherein the information is (capable, depending on what the user wants printed on the tape) one of a group of an indication of tape remaining in a cassette received in the printer, a serial number numbering a label in a series of labels, and an indication of where a tab cut is located.

Note, insofar as how these elements are determined or structurally defined to the printer of claim 49, the printer of Sugaya et al. is capable of printing information of a tape on any one of the listed group above. What is printed on the print medium is not a structural limitation that further defines the invention, but rather reads on how the recited structure is used. Therefore the taught structure above is capable of performing the intended use recited.

With respect to claim 51, Sugaya et al. as modified by Niwa teaches in Fig. 2 of Niwa a label printer for printing wherein one of said cuts is a full cut.

With respect to claim 52, Sugaya et al. as modified by Niwa teaches in Fig. 1 of Sugaya a label printer for printing comprising a reverser (3, capable of being) arranged to reverse the image receiving material (1), on which the labels are arranged to be printed.

With respect to claim 53, Sugaya et al. as modified by Niwa teaches in Fig. 1 of Sugaya a label printer for printing wherein said reverser (3, is capable of being) arrange to reverse the image receiving medium (i.e. the label half cut but the cutter taught by Niwa) from the cutter, 23, to said at least one print head, 21.

With respect to claim 57, SUgaya et al. as modified by Niwa teaches in Fig. 1 of Sugaya a label printer for printing wherein the at least one print head (21) is arrange to print backgrounds on said first and second labels (of Niwa) in different colors [0046] of the machine translation of Sugaya et al.

With respect to claims 69, 70 and 73, a printer Sugaya et al. teaches in Fig. 1 a label printer wherein the printer is capable (via the print head 21) of printing information to a user on the region, wherein the information comprises one or more of: an indication of an amount of tape remaining in a cassette, a serial number numbering a label in a series of labels, and an indication of where a tab cut is located.

Note what is printed on the print medium is not a structural limitation that further defines the invention, but rather reads on how the recited structure is used. Therefore the taught structure above is capable of performing the intended use recited.

With respect to claim 71, Sugaya et al. teaches in Fig. 1 a label printer wherein one or both of the cuts on either side of the region comprises a full cut, as seen in Fig. 13.

Response to Arguments

Applicant's arguments with respect to claims 48, 58, and 74 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 6/20/11 have been fully considered but they are not persuasive.

With respect to claims 48, 58 and 74, applicant's arguments, specifically how Sugaya fails to teach a blend between the first and second backgrounds, the examiner respectfully disagrees.

In Fig. 10 of Sugaya, it clearly teaches first and second images/backgrounds 1 and 2, where between P2 and P3, there is a defined area between P2 and P3) where both image are blended together, i.e. in a fix region between P2 and P3 there exists the presence of both images 1 and 2, hence a blend of the first and second backgrounds.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW G. MARINI whose telephone number is (571)272-2676. The examiner can normally be reached on Monday-Friday 8:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571)-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW G MARINI/
Primary Examiner, Art Unit 2854